

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 MARINA CALOVE,

5 Plaintiff,

6 v.

7 STATE OF NEVADA et al.,

8 Defendants.
9

Case No. 2:16-cv-02953-APG-VCF

**ORDER GRANTING MOTIONS TO
DISMISS**

(ECF Nos. 12, 15, 16, 26, 28, 42)

10 Plaintiff Marina Calove brings this case for “trespass” and “trespass on the case” against
11 the defendants, contesting a home foreclosure carried out in 2015. Although the exact grievance
12 is mostly inscrutable, it fits most closely with a claim for wrongful foreclosure, and possibly also
13 a claim for intentional or negligent misrepresentation. The defendants move to dismiss the case
14 for lack of subject matter jurisdiction. Because the complaint presents no federal question and
15 the parties are not completely diverse, I lack jurisdiction over the matter and therefore grant the
16 defendants’ motions to dismiss.

17 United States district courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life*
18 *Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The Court has original jurisdiction over cases
19 “arising under the Constitution, treaties or laws of the United States,” or when the amount in
20 controversy exceeds the sum of \$75,000 and the citizenship of each plaintiff is different from
21 that of each defendant. 28 U.S.C. § 1331; 28 U.S.C. § 1332(a); *see also Caterpillar Inc. v. Lewis*,
22 519 U.S. 61, 68 (1996) (“complete diversity of citizenship” is required). The party asserting that
23 this Court has jurisdiction bears the burden of establishing it. *See Kokkonen*, 511 U.S. at 377.


24 The complaint appears to assert claims for wrongful foreclosure and misrepresentation
25 (each of the six causes of action is entitled “trespass” or “trespass on the case,” but the claims do
26 not present six coherent, distinct causes of action). These claims do not arise under the
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1 Constitution, laws, or treaties of the United States. Section 1331 therefore does not provide
2 subject matter jurisdiction because a federal question is not presented on the face of the
3 plaintiff's complaint. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

4 Calove describes herself as a "sovereign citizen," but asserts she is "a people of Nevada,"
5 which I understand to mean she is a citizen of Nevada for purposes of diversity jurisdiction
6 analysis. One basis on which the defendants move to dismiss the complaint is that complete
7 diversity is destroyed by defendants Clark County, the State of Nevada, Rebecca Kern, and
8 Bobby Choudhury. *See Nevada ex rel. Colorado River Comm'n of Nevada v. Pioneer Cos., Inc.*,
9 245 F. Supp. 2d 1120, 1129 (D. Nev. 2003) (quoting *Missouri Water Users' Ass'n v. Montana*
10 *Power Co.*, 139 F.2d 998, 999 (9th Cir.1944) ("Absent a federal question, the district courts are
11 not possessed of jurisdiction of suits by or against a state.")). Calove offers no response in
12 rebuttal. She therefore has not met her burden of establishing that subject matter jurisdiction
13 exists in this Court. She may pursue her claims in state court but not in federal court as she has
14 presented them in her complaint

15 IT IS THEREFORE ORDERED that the defendants' motions to dismiss (**ECF Nos. 12,**
16 **15, 16, 26, 28, 42)** are **GRANTED** with leave to amend. If Calove can file an amended
17 complaint curing the jurisdictional defects in her original complaint, he must file that amended
18 complaint by May 8, 2017. If she fails to do so, the case will be closed.

19 DATED this 24th day of April, 2017.

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23 ANDREW P. GORDON
24 UNITED STATES DISTRICT JUDGE
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